

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**JUDGMENT IN A CIVIL CASE**

**Esther Colene O'Neill**

Plaintiff

vs.

**CASE NUMBER: 5:05-CV-188 (FJS?GHL)**

**United States of America**

Defendant and Third-Party Plaintiff

vs.

**State of New York**

Third-Party Defendant

**Decision by Court.** This action came to bench trial before the Court. The issues have been tried and heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Based on all of the evidence adduced at trial and the applicable law, the Court finds that the step-down where Plaintiff fell was both open and obvious and, as a matter of law, was not inherently dangerous. Furthermore, the Court concludes that the condition that caused Plaintiff's accident is not fairly attributable to any negligent maintenance of the pier and that, therefore, Defendant did not breach any duty to Plaintiff and is not liable for her injuries. Judgment is hereby entered in favor of the United States of America.

All of the above pursuant to the order of the Honorable Senior Judge Frederick J. Scullin, Jr., dated the 19<sup>th</sup> day of February, 2009.

DATED: February 19, 2009

  
Clerk of Court

s/

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Joanne Bleskoski  
Deputy Clerk